IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WA.No. 624 of 2007()

AGAINST THE JUDGEMENT IN WPC.6524/2007 Dated 06/03/2007
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APPELLANT: PETITIONER
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1. S.SAKKIR, S/O. SAINUDDIN PILLAI,
SHASKANS, THANNIMOODU, IRINCHAYAM,
NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.K.I.ABDUL RASHEED

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY PRINCIPAL SECRETARY,
GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DIRECTOR,
KERALA STATE COUNCIL OF EDUCATIONAL RESEARCH
AND TRAINING, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SHRI. SANDESH RAJA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. Raman & Antony Dominic, JJ.

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W.A.No.624 of 2007

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Dated this the 14th day of March, 2007.

JUDGMENT

Antony Dominic,J.

Appellant filed the Writ Petition seeking to quash Ext.P10 and to direct the second respondent to retain him in the post of Joint State Co-ordinator till a regular hand is appointed on finalisation of the Special Rules, Staff Pattern, etc. for the Kerala State Open School. The Writ Petition having been dismissed, this appeal is filed.

2. We have heard counsel for the appellant and the respondents and on going through the pleadings, we are not inclined to interfere with the judgment of the learned single Judge.

3. It is seen that the appellant was appointed as Joint State Co-ordinator in the Kerala State Open School, SCERT, on contract basis on a consolidated pay of Rs.8,000/-, till a regular hand is appointed, on finalisation of the Special Rules, Staff Pattern, etc., subject to ratification by the governing body of SCERT, as per Ext.P2 order dated 3.2.2006. Ext.P3 in the Writ Petition is the contract entered into between the parties and Clause 7, in so far as it is relevant, provides

that either party shall be at liberty to terminate the agreement on giving to the other party one month's notice in writing. Alleging that the respondents were intending to appoint a person of their choice for extraneous consideration and seeking an order to enable his continuance as Joint State Co-ordinator, the appellant had filed O.P.No.31506 of 2006, which was disposed of by a learned single Judge of this Court by Ext.P6 judgment. In the judgment, it was made clear that while the appellant can continue in service till his service is terminated in terms with the provisions of the agreement, it will not stand in the way of the Director invoking the provisions of the agreement to terminate his services. It is also clarified that in such an eventuality, the appellant will be entitled to raise all his contentions against any such action. Subsequent to Ext.P6 judgment, Ext.P10 notice was issued intimating the appellant that the agreement will stand terminated on 10.3.2007. It was challenging Ext.P10 notice that the Writ Petition was filed.

4. At the outset, we notice that the right of the appellant to be employed as Joint State Co-ordinator, is regulated by the terms of Ext.P3, the agreement entered into between the parties. Ext.P3 inter alia provided that either party is at liberty to terminate the agreement subject to giving one month's notice to the other party. In Ext.P6

judgment also, this Court had reiterated this position and held that the appellant can continue as Joint State Co-ordinator only till the Director invokes the relevant provisions of the agreement for terminating the contractual arrangement. Such being the case, since Ext.P10 having been issued, invoking the rights available to the Director under Ext.P3 agreement, Ext.P10 cannot be faulted on any ground. Even otherwise, the appellant, being a party to the agreement, and having enjoyed the benefits thereof, cannot now turn around and contend that any of the provisions of the agreement are offending in any manner.

6. Be that as it may, we note that the learned single Judge has generously safeguarded the interests of the appellant by recording the submission of the Government Pleader that no person will be appointed after the termination of the service of the appellant. It has been clarified in the judgment that in case any person is appointed as Joint State Co-ordinator otherwise than in accordance with the Special Rules, it will be open to the appellant to seek relief and the judgment will not stand in the way of the appellant approaching this Court. This, in our view, was the maximum that was possible in the circumstances of the case. The appellant can have grievance only if anybody is appointed otherwise than in accordance with the Special Rules, in which event, he has been given liberty to approach this Court.

7. Along with I.A.No.3447 of 2007, the appellant has produced Ext.P12, a representation dated 2nd March, 2007 addressed to the first respondent requesting to permit him to continue in the post of Joint State Co-ordinator at least till the appointment of new hands which is made in accordance with the Special Rules. We clarify that this judgment will not stand in the way of the first respondent taking up and passing orders on Ext.P12, which shall be done within a period of two months from the date of receipt of a copy of this judgment.

Subject to the above, this appeal will stand dismissed.

P.R.Raman,
Judge.

Antony Dominic
Judge.

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